

**BOWEN UNIVERSITY, IWO, OSUN STATE
COLLEGE OF LAW**

FIRST SEMESTER EXAMINATION, 2021/2022 SESSION

COURSE CODE: PCL 303

COURSE TITLE: LAW OF TORTS 1

**INSTRUCTIONS: ATTEMPT AT LEAST ONE QUESTION FROM EACH SECTION
AND FOUR QUESTIONS IN ALL**

LOGICAL AND GRAMMATICALLY CORRECT PRESENTATION OF ANSWERS ARE IMPORTANT

EACH QUESTION CARRIES 17 ½ MARKS

TIME ALLOWED: 3 HOURS

1. Daniel, a famous footballer, went shopping with his pregnant wife, Tinu. at Plantain Mall, Iwo. While shopping, he slipped and fell on the wet floor in one of the aisles. His wife, Tinu, tried to help him get up but she also slipped and fell on her stomach. The floor had recently been mopped by one of the Mall employees, but there were no signs warning customers that the floor in that area was wet. As a result of the fall, Daniel fractured his right ankle and he has been unable to play football for the six months. Tinu also lost her pregnancy as a result of her fall. She had spent about Three Million Naira to conceive through Assisted Reproductive Technology (ATR). Had Daniel been able to play in the scheduled tournaments, he would have earned approximately \$500,000 over the period of time. Daniel sued Plantain Mall for the amount he spent on his wife and the money he would have earned had he played in the tournaments. In addition to this amount, Daniel sued for damages of One Million Naira (N1, 000,000.00) for medical expenses. Daniel claimed that Plantain Mall's failure to warn customers of wet floors constituted negligence and therefore subjects the proprietors to liability for injuries sustained by him and his wife. **Discuss Daniel's chances of success in court.**

2. (a) Kenneth was driving carelessly from his house to the market. He failed to stop at a pedestrian crossing and collided with Patience and her two children, Tom and Janet. Tom was killed instantly and Patience and her daughter were unconscious owing to massive blood loss. Patience suffered post-traumatic stress disorder from this incident and intends to sue Kenneth for damages. **Advise Patience on the likelihood of a successful action for emotional distress.**

- (b) Your roommate, Timilehin, has just read about 'causation' in the Law of Torts, he has approached you to explain it further to him. **Write the explanation.**

3. (a) Explain the doctrine of *Res ipsa loquitur* and proof of negligence.
- (b) Convince your junior colleague about the importance and relevance of torts law through a historical approach, identifying the key interests or rights that the law seeks to protect in the society.

SECTION B

4. Kole, a thirty year old man of scruffy appearance, was relaxing with his friend, Josh, and both were sharing a bottle of wine. Vic, who was passing at the other side of the road, made derogatory comments on Kole and Josh's appearance. Kole moved towards Vic in a menacing manner but was unable to cross the road due to the morning rush traffic. Vic was so angry that he

returned five minutes later carrying a big stick which he hauled at Kole. The stick missed the latter but struck Josh instead, rendering him unconscious. Kole, fearing for his life and safety, struck Vic on the head making him unconscious too. Kole then quickly locked Vic in a nearby one-storey building store room where there was an open window. John, a witness to this event, quickly grabbed Kole from the back, immobilizing him for one hour. On arrival, Josh was taken to the hospital by the police while Kole and Vic were taken to the station for questioning. **Advise all the parties.**

5. The tort of trespass applies to both children as well as adults, and the corresponding duty of care owed to them is equal or the same. **Examine this statement.**

6. On the 1st of February 2022, Mr. Joshua Odunla and Mr. Biola Ogunde, employees of Light-Well Gas Company Nigeria Limited of No 25 Industrial Layout, Ibadan, Oyo State, were delivering gas cylinders to Mr. Innocent Awosika's home in the Owode area of Osogbo. While Mr. Joshua Odunla was unloading the gas cylinders, one of the cylinders caught fire from lighted fireworks in the hand of Mr. Biola Ogunde. The resultant explosion and fire from the fireworks destroyed Mr. Innocent Awosika's house. Mr. Innocent Awosika intends to institute a legal action against Mr. Biola Ogunde and Light-Well Gas Company Nigeria Limited. On the 18th of February 2022, during the company's verification visit to Mr. Innocent Awosika's house to verify the level of the damage he had suffered, Mr. John Kulman, the company's Managing Director, stated as follows: *"You are free to sue Mr. Biola Ogunde for the damage he has caused you. The company has no hand in what has happened to you and our company will never bear responsibility for the negligence of Mr. Biola Ogunde. The company, however, sympathises with you for the destruction of your house"*. Due to the statement of Mr. John Kulman, Mr. Innocent Awosika is now confused as to whether or not to include the Company in his suit for recovery of damages for the destruction of his house. He has approached you for legal advice. **With the aid of judicial authorities, advise Mr. Innocent Awosika.**

7. According to Kodilinye, in *Nigerian Law of Torts*, "A tort is a civil wrong involving a breach of a duty imposed by law, repressible usually by an action for un-liquidated damages". Tort law aims to compensate (usually by way of damages) the victim who has suffered from the tortuous act of the defendant. Tort law further seeks to deter people from committing wrongs and taking unnecessary risks because they would compensate anybody that suffered from their wrongful act. Further, the Law of Torts is usually similar to and complements other areas of law. **Discuss.**